

2B



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/650,950      | 08/29/2000  | Mark T. Gross        | 5038-41             | 8973             |

20575 7590 06/16/2003

MARGER JOHNSON & MCCOLLOM PC  
1030 SW MORRISON STREET  
PORTLAND, OR 97205

EXAMINER

JOHNSON, MARLON B

ART UNIT PAPER NUMBER

2153

DATE MAILED: 06/16/2003

4

Please find below and/or attached an Office communication concerning this application or proceeding.

2B

**Office Action Summary**

Application No.

09/650,950

Applicant(s)

GROSS, MARK T.

Examiner

Marlon Johnson

Art Unit

2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 27 May 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-7 and 14-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 14-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 August 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

MB

## **Detailed Action**

### ***Specification***

1. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

(a) TITLE OF THE INVENTION.

(b) CROSS-REFERENCE TO RELATED APPLICATIONS.

(c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR  
DEVELOPMENT.

(d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A

COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or

REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a).

"Microfiche Appendices" were accepted by the Office until March 1, 2001.)

(e) BACKGROUND OF THE INVENTION.

(1) Field of the Invention.

(2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.

(f) BRIEF SUMMARY OF THE INVENTION.

(g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).

(h) DETAILED DESCRIPTION OF THE INVENTION.

(i) CLAIM OR CLAIMS (commencing on a separate sheet).

(j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

(k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A “Sequence Listing” is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required “Sequence Listing” is not submitted as an electronic document on compact disc).

The applicant(s) have specifically requested to maintain their specification without the Brief Summary of the Invention. However, there should be some type of –not applicable– sentence under a Summary headline.

### ***Claim Rejections – 35 U.S.C. 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2153

3. Claims 1-3, 5, 14, and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Feinleib (6,272,532), and in further view of Durlister et al. ("If OS/2 had a robust boot disk, we could stop doing the hokeypokey").

In considering claim 1,

Feinleib discloses a method for configuring an appliance across a network, comprising: receiving configuration instructions via e-mail received at the appliance (see col. 2, lines 50-59).

Although Feinleib shows substantial features of the claimed invention, he fails to disclose the configuration instructions in command format. However, Durlister et al., whose invention is about OS/2 troubleshooting, discloses such configuration instructions in command format (.INI.) (see page 2, lines 19-22). Therefore, given the teachings of Durlister et al., it would have been obvious for a person having ordinary skills in the art to modify Feinleib by sending/receiving configuration instructions in a command format in order to provide direct execution of the configuration information, as opposed to parsing the information.

In considering claim 2,

Feinleib discloses a method wherein the e-mail is received at a mail server on the appliance (see col. 2, lines 59-64).

In considering claim 3,

Feinleib discloses a method wherein the mail server on the appliance communicates is one of the group comprised of: an IMAP server, and a SMTP server (see col. 2, lines 59-66).

In considering claim 5,

Feinleib discloses a method wherein the method further comprises connecting the appliance to the network to receive the electronic mail (see col. 5, lines 28-36).

Art Unit: 2153

In considering claim 14,

Feinleib discloses an article comprising:

a storage medium, the storage medium having stored thereon instructions, that, when executed by a computing device, result in:

- i) reception of electronic mail by a network appliance (see col. 5, lines 28-36); and
- ii) configuration of the appliance in accordance with instructions contained in the electronic mail (col. 2, lines 50-59).

Furthermore,

Durlester et al. discloses configuration instructions in command format (.INI.) (see page 2, lines 19-22).

In considering claim 15,

Feinleib discloses an article wherein the computing device is the network appliance (see col. 5, lines 28-36).

4. Claims 4, 6, 7, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feinleib and Durlester et al.

In considering claim 4,

Feinleib discloses a method wherein the method further comprises running a mail daemon from the appliance, wherein the daemon monitors electronic mail for the device (see col. 5, lines 28-36).

Although Feinleib shows substantial features of the claimed invention, he fails to disclose the appliance always connected to the network. Nonetheless, the continual, uninterrupted

Art Unit: 2153

connection of an appliance to a network would have been an obvious modification to the appliance disclosed by Feinleib, as many commercial devices are required to always be connected to the network in order to provide some type of requested service for end customers/clients. It would have been obvious for a person having ordinary skills in the art to modify Feinleib by always having the appliance connected to the network in order to provide 24/7 operations of usage for the appliance.

In considering claims 6 and 7,

Although Feinleib shows substantial features of the claimed invention, he fails to disclose the e-mail being received at a mail client on the appliance, as well as the mail client communicating with a mail server on the network. Nonetheless, the use of a mail client for receiving e-mail and communicating with a mail server would have been an obvious modification to the appliance disclosed by Feinleib, as many networks uses receive e-mail at a mail client on their PCs, such as Microsoft Outlook, wherein that mail client further communicates with a mail server, such as AOL. It would have been obvious for a person having ordinary skills in the art to modify Feinleib by receiving e-mail being at a mail client on the appliance, and provide communication between the mail client and a mail server on the network in order to permanently archive/save the e-mails onto the client system.

In considering claims 16 and 17,

Although Feinleib shows substantial features of the claimed invention, he fails to disclose the network appliance being a remote camera or Internet radio player. Nonetheless, those two appliances are commonly used as network appliances for applications such as WebCam and Real Audio Player, and would have been obvious modifications to the network appliance disclosed by

Feinleib. It would have been obvious for a person having ordinary skills in the art to modify Feinleib by using a remote camera or Internet radio player in order to utilize a multitude of multimedia services and applications.

***Response to Arguments***

5. Applicant's arguments with respect to claims 1-17 on page 5, lines 11-12, 21-23, 25-27, 29-31, and page 6, lines 1-2, 13-15, 17-20, and 26-27 have been considered but are moot in view of the new ground(s) of rejection.

6. Applicant(s) arguments filed 5/27/03 have been fully considered but they are not persuasive.

7. Applicant(s) argue on page 6, lines 11-15, that the applicant's invention is not necessarily confined to commercial devices. The examiner merely used commercial devices as examples of widely-used applications that are always connected to the network, not to confine the applicant's invention to just commercial devices.

8. Applicant(s) argue on page 6, lines 21-24, that the examiner seems to be contradictory in the remarks regarding the obviousness of a device being a commercial, as well as a consumer (non-commercial) one. The examiner never explicitly or implicitly defined consumer devices to be non-commercial device, as the two adjectives are not analogous comparisons. Commercial is purely related to the intended use of the device (e.g. for business use), while consumer is related to anything that is purchased for use, regardless of the intended use (e.g. personal or business use). Thus, it is clear that consumer devices can also be commercial devices.



Art Unit: 2153

***Conclusion***

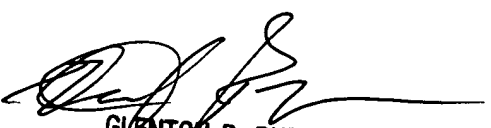
9. This action is made final. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marlon Johnson whose telephone number is (703) 305-4642. The examiner can normally be reached on Monday to Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess, can be reached on (703) 305-4792. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3230.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

  
GLENTON B. BURGESS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100